TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
ITL.0138US

In Re Application Of: **Animesh Mishra, et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/216,483	**December 18, 1998**	**Naghmeh Mehrpour**	**47795**	**2617**	**9630**

Invention: **Remotely Controlling Electronic Devices**

COMMISSIONER FOR PATENTS:

Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:

November 20, 2007

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Dated: **January 16, 2008**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	Animesh Mishra, et al.	Art Unit:	2617
Serial No.:	09/216,483	Examiner:	Naghmeh Mehrpour
Filed:	December 18, 1998	Atty Docket:	ITL.0138US (P6506)
For:	Remotely Controlling Electronic Devices	Assignee:	Intel Corporation

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APPEAL BRIEF

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Nancy Meshkoff

TABLE OF CONTENTS

REAL PARTY IN INTEREST

The real party in interest is the assignee Intel Corporation.

RELATED APPEALS AND INTERFERENCES

Appeal No. 2004-2179 in U.S. Patent Application No. 09/785,919, a continuation of the subject application.

STATUS OF CLAIMS

Claims 1-6 (Canceled).

Claims 7-18 (Rejected).

Claim 19 (Canceled).

Claims 20-21 (Rejected).

Claim 22 (Canceled).

Claims 23-25 (Rejected).

Claim 26 (Canceled).

Claims 27-29 (Rejected).

Claims 7-18, 20-21, 23-25, and 27-29 are rejected and are the subject of this Appeal Brief.

STATUS OF AMENDMENTS

No amendments were made in the Reply to Final Rejection submitted September 7, 2007. All amendments have therefore been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

In the following discussion, the independent claims are read on one of many possible embodiments without limiting the claims:

7. A remote control system for an electronic device comprising:

a first device (Figure 1, 12) including a processor (Figure 7, 100) and a radio frequency transceiver (Figure 7, 132) and an infrared transceiver (Figure 7, 130), said processor arranged to control said infrared and radio frequency transceivers (specification at page 14, line 27 to page 15, line 2 and line 24 to page 16, line 11);

a remote control unit (Figure 1, 18) including a device to remotely control an electronic device and a telephone unit to enable remote communications with a telephone network, said remote control unit communicating with said first device (specification at page 4, lines 6-14); and

said telephone unit (Figure 2, 18) including a detector (Figure 2, 27) to detect a carrier frequency of a proximate wireless telephone, said telephone unit being tunable to automatically tune to the carrier frequency of the proximate wireless telephone (specification at page 7, lines 10-27; page 12, line 22 to page 13, line 26).

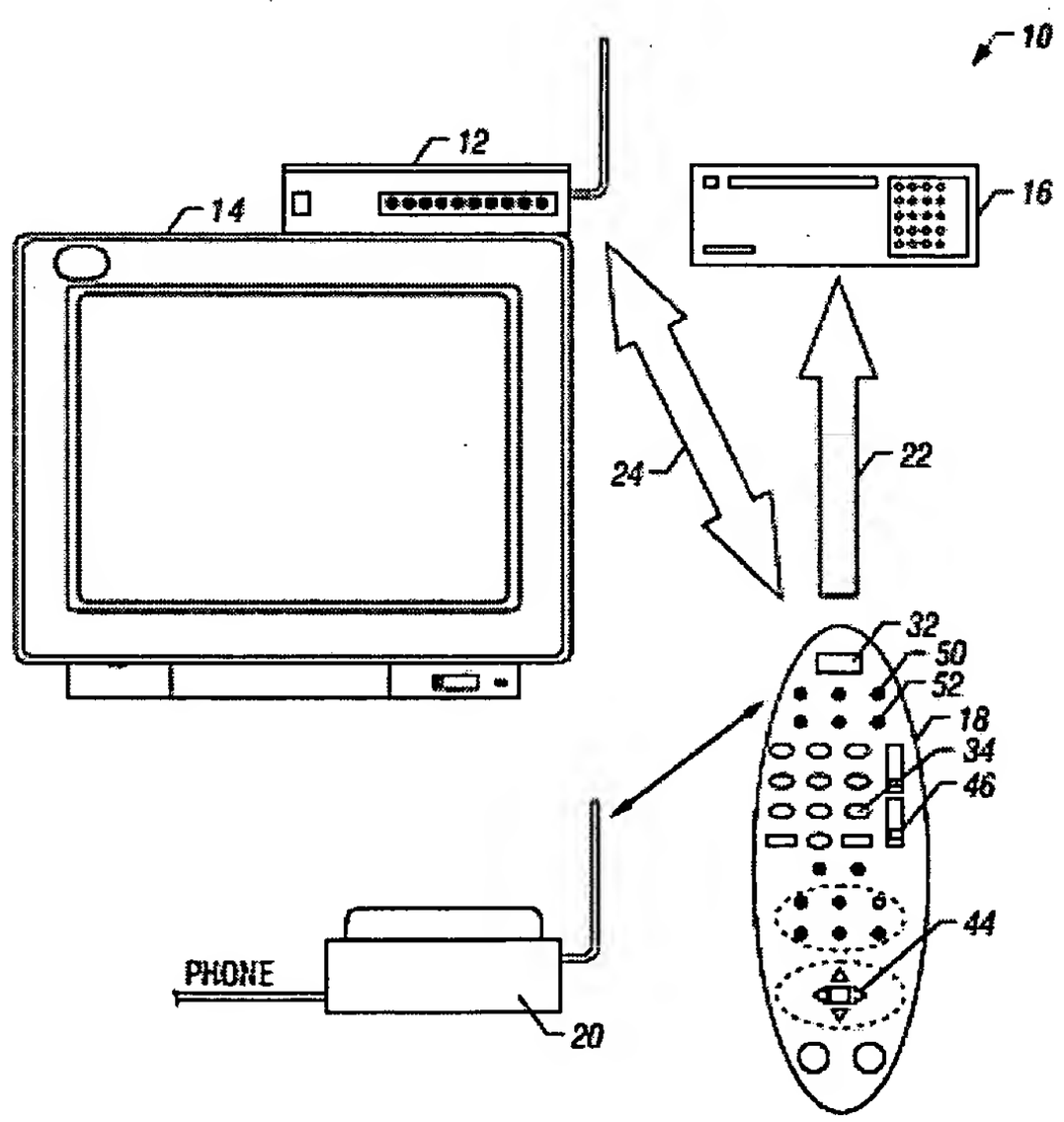

FIG. 1

16. A method of completing a telephone call comprising:

enabling a user to control an electronic device (Figure 1, 14) using a remote control unit (Figure 1, 18);

receiving a signal from a proximate wireless telephone (Figure 1, 20);

determining the carrier frequency of the proximate wireless telephone (specification at page 7, lines 10-27); and

tuning the remote control unit to the carrier frequency so that the user can receive a telephone call through the remote control unit (specification at page 7, lines 10-27).

20. An article comprising a medium for storing instructions that enable a processor-based system to:

enable a user to control an electronic device (Figure 1, 14) using a remote control unit (Figure 1, 18);

determine the carrier frequency of a proximate wireless telephone (Figure 1, 20) (specification at page 7, lines 10-27); and

in response to determining the carrier frequency of a proximate wireless telephone, tune the remote control unit to the carrier frequency so that the user can receive a telephone call through the remote control unit (specification at page 7, lines 10-27).

[CONTINUED ON NEXT PAGE]

27. The article of claim 20 further storing instructions that enable the processor-based system to prompt the user to issue a page from the user's wireless telephone (Figure 5, 74) (specification at page 13, lines 6-9).

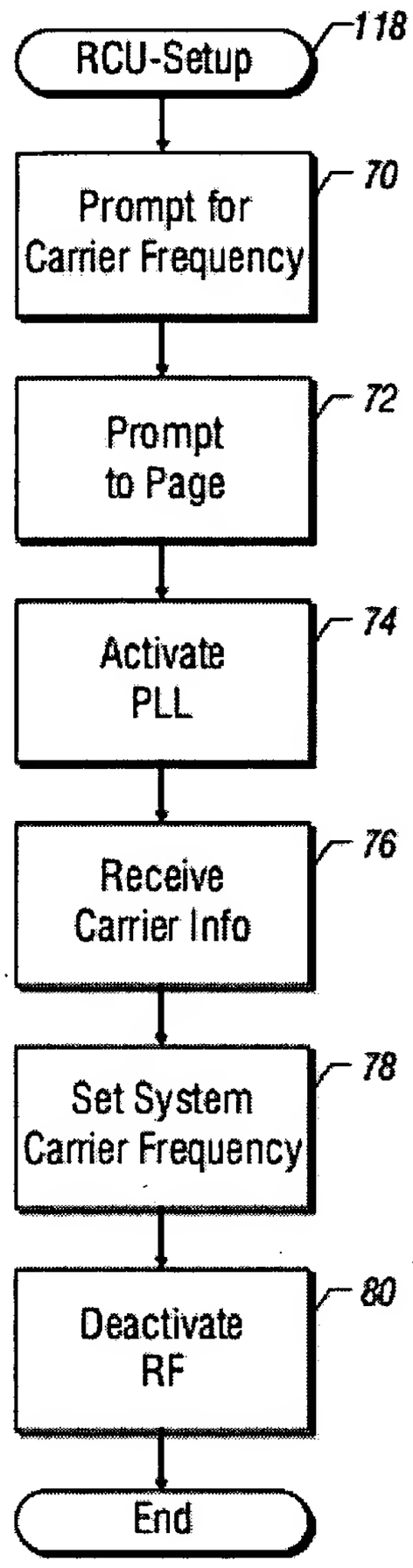

FIG. 5

28. The method of claim 16 further including prompting the user to issue a page from the user's wireless telephone (Figure 5, 74) (specification at page 13, lines 6-9).

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 7-14, 16, 20-21, 23, 25, and 27-29 are anticipated under 35 U.S.C. § 102(e) by Barzeber (US 2002/0044199).

B. Whether claim 15 is unpatentable under 35 U.S.C. § 103(a) over Barzeber (US 2002/0044199) view of Gouessant (US 5,920,806).

C. Whether claims 17-18 and 24 are unpatentable under 35 U.S.C. § 103(a) over Barzeber (US 2002/0044199) view of Buckingham (US 6,763,017).

ARGUMENT

A. Whether claims 7-14, 16, 20-21, 23, 25, and 27-29 are anticipated under 35 U.S.C. § 102(e) by Barzeber (US 2002/0044199).

Independent Claim 7

In Barzebar the carrier frequency must be fixed to work with a particular telephone. With the present application, the user can simply buy a computer system, for example, use the remote control unit to control the computer system and cause the remote control unit to learn the carrier frequency of the user's pre-purchased wireless telephone system. The remote control then automatically tunes to the detected wireless frequency.

There is no telephone unit including a detector to detect a carrier frequency "of a proximate wireless telephone" or a telephone unit "being tunable to automatically tune to the carrier frequency of the proximate wireless telephone" in Barzeber. Among other reasons, this is because the unit in Barzebar is one whole unit and there is no separate telephone unit.

Independent Claims 16 and 20

Similarly, claim 16 calls for determining the carrier frequency of a proximate wireless telephone and tuning the remote control unit to the carrier frequency so that the user can receive a telephone call through the remote control unit. Such an adaptable system is nowhere suggested in the cited reference.

Dependent Claims 27, 28

Dependent claims 27 or 28 specifically call for issuing a page from the user's wireless telephone and prompting the user to issue a page for the user's wireless telephone. The cited reference has no such system.

Therefore, rejections of claims 27 and 28 should be reversed.

B. Whether claim 15 is unpatentable under 35 U.S.C. § 103(a) over Barzeber (US 2002/0044199) view of Gouessant (US 5,920,806).

For the reasons set forth above, the rejections should be reversed.

C. **Whether claims 17-18 and 24 are unpatentable under 35 U.S.C. § 103(a) over Barzeber (US 2002/0044199) view of Buckingham (US 6,763,017).**

For the reasons set forth above, the rejections should be reversed.

* * *

Applicant respectfully requests that each of the final rejections be reversed and that the claims subject to this Appeal be allowed to issue.

Respectfully submitted,

Date: January 16, 2008

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CLAIMS APPENDIX

The claims on appeal are:

7. A remote control system for an electronic device comprising:

a first device including a processor and a radio frequency transceiver and an infrared transceiver, said processor arranged to control said infrared and radio frequency transceivers;

a remote control unit including a device to remotely control an electronic device and a telephone unit to enable remote communications with a telephone network, said remote control unit communicating with said first device; and

said telephone unit including a detector to detect a carrier frequency of a proximate wireless telephone, said telephone unit being tunable to automatically tune to the carrier frequency of the proximate wireless telephone.

8. The remote control system of claim 7 wherein said telephone unit includes a radio frequency transceiver adapted to remotely communicate with said telephone network.

9. The remote control system of claim 8 wherein said transceiver is tunable to the carrier frequency used by another wireless telephone.

10. The remote control system of claim 9 wherein said telephone unit includes a device which is automatically tuned to the frequency of another wireless telephone.

11. The remote control system of claim 7 including a repeater for forwarding a wireless transmission received from the first device to said electronic device.

12. The remote control system of claim 7 wherein said first device and said remote control unit are adapted to communicate both by radio frequency and infrared signals.

13. The remote control system of claim 12 wherein said first device and said remote control unit communicate via bidirectional infrared signals and said remote control unit communicates with said electronic device using unidirectional infrared signals.

14. The remote control system of claim 7 wherein said remote control unit is adapted to act as radio frequency transceiver for telephone communications with said first device.

15. The remote control system of claim 7 wherein said first device is a set-top computer system.

16. A method of completing a telephone call comprising:

enabling a user to control an electronic device using a remote control unit;

receiving a signal from a proximate wireless telephone;

determining the carrier frequency of the proximate wireless telephone; and

tuning the remote control unit to the carrier frequency so that the user can receive a telephone call through the remote control unit.

17. The method of claim 16 further including using a processor based system that detects an incoming call and produces an off hook signal.

18. The method of claim 17 further including converting signals from a telephone network into radio frequency signals and transmitting said signals to the remote control unit.

20. An article comprising a medium for storing instructions that enable a processor-based system to:

enable a user to control an electronic device using a remote control unit;

determine the carrier frequency of a proximate wireless telephone; and

in response to determining the carrier frequency of a proximate wireless telephone, tune the remote control unit to the carrier frequency so that the user can receive a telephone call through the remote control unit.

21. The article of claim 20 including instructions that cause a processor based system to prompt for a wireless telephone carrier frequency.

23. The article of claim 20 including instructions that cause a processor based system to use the carrier frequency of another wireless telephone.

24. The article of claim 20 including instructions that cause a processor based system to produce a telephone off hook signal when an incoming call is detected.

25. The article of claim 20 including instructions that cause a processor based system to receive infrared command signals in one format and to transmit infrared command signals in a second format.

27. The article of claim 20 further storing instructions that enable the processor-based system to prompt the user to issue a page from the user's wireless telephone.

28. The method of claim 16 further including prompting the user to issue a page from the user's wireless telephone.

29. The system of claim 7 further including a storage storing instructions that enable the processor to prompt the user to issue a page on the user's wireless telephone.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

See Decision on Appeal No. 2004-2179, mailed December 28, 2004, in U.S. Patent Application No. 09/785,919, a continuation of the subject application, on the following pages.

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P6504C

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANIMESH MISHRA, JUN SHI and KENNETH C. CURT

Appeal No. 2004-2179
Application No. 09/785,919

ON BRIEF

Before THOMAS, MACDONALD, and NAPPI, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 26-40.

Representative claim 26 is reproduced below:

Mail Date 12-28-04
Due Date 2-28-05
Act. Req. request for reconsideration / appeal to ct. of appeals
TPHD☒ TPHA☐ ITLD☒

26. A method comprising:

receiving a first command from a remote control unit in a first format for a first consumer device;

translating said first command to a second format and forwarding said first command in said second format to said first consumer device;

receiving a second command from a remote control unit in the first format for a second consumer device; and

translating said second command to a third format and forwarding said second command in said third format to said second consumer device.

The following references are relied on by the examiner:

Fukuda	5,995,844	Nov. 30, 1999 (filing date Jun. 20, 1997)
Kitao et al. (Kitao)	6,160,491	Dec. 12, 2000 (effective filing date Nov. 07, 1995)
Schultheiss	6,195,548	Feb. 27, 2001 (effective filing date Dec. 02, 1996)

Claims 26-28, 30, 33-36, 39 and 40 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Schultheiss. The remaining claims on appeal stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Schultheiss in view of Fukuda as to claim 29 and Schultheiss in view of Kitao as to claims 31, 32, 37 and 38.

Rather that repeat the positions of the appellants and the examiner, reference is made to the brief and reply brief for appellants positions and to the answer for the examiner's positions.

OPINION

At the outset, we note that with respect to each of the claims on appeal and with respect to each of the three separately stated rejections, appellants present arguments only with respect to claim 26, rejected under 35 U.S.C. § 102. That is to say, no arguments are presented as to independent claims 33 and 39 and no arguments are presented for our review here as to the two separately stated rejections of certain claims under 35 U.S.C. § 103. It is noted the bottom of page 5 of the brief indicates that "all of the claims may be grouped with claim 26."

We sustain the rejection therefore of all claims on appeal since we agree with the examiner that claim 26 as a representative claim of all claims on appeal is anticipated by Schultheiss for the reasons set forth by the examiner in the answer, which we embellish upon here.

From our careful study of the subject matter of argued independent claim 26 on appeal, the first and second commands are

not stated to be different, the second format is not stated to be different from the third format and the first consumer device is not stated to be different from the second consumer device. Therefore, appellants' arguments in the brief and reply brief that appear to be repeatedly stated that two "different" consumer devices are required and that "another" or "different" format is required in the second and third formats are not persuasive. Correspondingly, appellants' arguments at page 2 of the reply brief that the examiner errs in a second manner in misapprehending the claim is equally misplaced. Again the same point is attempted to be made that claim 26 requires two different consumer devices and that they be operated in two different or the second and third formats. Generally, the arguments are more specific than the actual language recited in representative claim 26 on appeal. Appellants' various suppositions about the art and this reference seem to confirm these views.

The examiner's views expressed in the statement of the rejection and remarks in the answer generally focus on the figure 2 embodiment of Schultheiss and the discussion of columns 8 and 9 of this reference. The examiner's initial reliance of column 8,

line 10 and the description of figure 2 may be simply stated that the wireless remote control unit 50 in this figure indirectly controls the TV by directly controlling the personal computer. The second feature of this portion relied upon by the examiner is the plain statement at lines 23-25 that personal computer commands may be transmitted from the wireless control unit to the personal computer to control the personal computer alone.

Thus, in the context of claim 26, the figure 2 circuitry receives a first keyboard command from the remote control unit 50' in a first format for a first consumer device for the television and provides a manner in which the translation occurs to the second format to actually control the first consumer device which is the television. The translation occurs from the UHF formats and command structures from the remote control unit 50' to the UHF transceiver 24 within the personal computer 12 to in turn transmit television commands to the UHF transceiver 204 within the television interface housing 202 which in turn converts the formats and keyboard commands into commands acceptable by the IR converter 206 to therefore control through IR commands 218 the television 40. The receiving of the second command structure and the translation of it obviously occurs with

respect to the control desired for the personal computer 12 itself from the remote control unit 50' in a corresponding manner.

The examiner's reliance upon the paragraph bridging columns 8 and 9 is significant in that the teaching there permits the overall structure of figure 2 to control other devices beyond a television, to include satellite receivers or VCRs. This analysis expands the nature of the translation and the number and different types of first and second consumer devices along with their respective formats.

Even though we have considered earlier that the claims do not require necessarily that different devices and different formats of the second and third formats be positively set forth in the claims, even this analysis of the examiner as amplified by us in the previous paragraph is consistent to meet the most particular arguments of appellants in the brief and reply brief.

Appellants' remarks at page 1 of the reply brief concerning the so-called first error of the examiner is correct in the sense that the examiner has the burden to provide evidence in the form of Schultheiss that it necessarily operates in the claimed fashion. As we construe the examiner's statement of the rejection along with the remarks portion of the answer, among

positions that the examiner does set forth regarding the (speculative) nature of appellants' arguments, the examiner's remarks do include positions that Schultheiss operates necessarily in the claimed manner. Certainly this is the case in view of our embellished positions.

We note in passing that the subject matter shown in figure 1 of Schultheiss very simply and directly relates to the subject matter of independent claim 26 on appeal as well. This figure plainly shows that an infrared transmitter from the wireless remote control unit 50 directly controls through various commands and formats, information signals in the form of IR signal 72 to the TV 40 for its direct control. In a similar manner, the same remote control unit 50 indirectly controls the same television 40 by means of the UHF transceiver 54 within this wireless remote control unit 50 by means of UHF control signals 74 and 76 to the UHF transmitter 24 in the personal computer. Correspondingly as well, the wireless remoter control unit 50 can directly control the personal computer 12. The use of infrared and UHF signal protocols requires different formats for the conversion of standard keyboard operations to control separate devices such as the personal computer 12 and the TV 40.

As revealed in the abstract, the reader should not lose sight of the fact that Schultheiss teaches "a unified television/personal computer wireless remote control."

In view of construing the subject matter actually recited in claim 26 and even in light of appellants' arguments, we also note in passing that the operability or functionality of the subject matter of claim 26 appears to be inclusive of what appellants admitted at pages 1 and 2 of the specification as filed to be known in the art. Different types of devices are clearly stated to be controllable in single prior art remote control units, to include different functionalities of control for each of the respective devices, which further include the use of different infrared control protocols which, as admitted, require different command sets to operate. Thus, it appears that the subject matter of representative argued independent claim 26 does not read over appellants' own admitted prior art.

In view of the foregoing, the decision of the examiner rejecting certain claims under 35 U.S.C. § 102 and certain claims under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

JAMES D. THOMAS Administrative Patent Judge	)	
ALLEN R. MACDONALD Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
ROBERT E. NAPPI Administrative Patent Judge	)	

JDT/vsh

Appeal No. 2004-2179
Application No. 09/785,919

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